

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19387 of 2015

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Lok Kranti

.... Petitioner/s

Versus

Chandeshwar Prasad Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 15-12-2016 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. Perused the impugned order dated 01.10.2015 passed by Subordinate Judge-XI, Muzaffarpur in Title Suit No.35 of 2010 whereby the learned court below rejected the intervention application filed by the petitioner under Order 1 Rule 10 CPC for being added as party in the title suit.

3. It appears that the said title suit was filed by the plaintiff-respondent for declaration of title and confirmation of possession. In the said suit the petitioner filed application under Order 1 Rule 10 CPC, which is Annexure-5 to this writ application wherein the petitioner at paragraph 3 specifically stated that he is a purchaser of the disputed land, therefore, he is necessary party and in his absence no effective decree can be passed as this petitioner since the day of purchase has been coming in possession of the



same. Rejoinder was filed to this application and it was alleged by the plaintiff-respondent that in fact the land purchased by the petitioner is different land. The description given in the sale deed of the petitioner is also differs from the boundary mentioned in schedule of the plaint. The court below by the impugned order has rejected the application filed by the petitioner recording finding that the boundary of the plot mentioned in the sale deed of the petitioner differs from the boundary of the land mentioned by the plaintiff-respondent.

4. At the time of hearing of this application the learned counsel for the respondents submitted that there is another plot between plot of the plaintiff and the plot purchased by the petitioner and, therefore, the petitioner is not a purchaser of the suit land.

5. In view of the submission of the learned counsel for the respondents that in fact the petitioner is not a purchaser of the suit land, now it becomes an issue between the parties to the effect that according to the petitioner he is a purchaser of the disputed land and according to the plaintiff-respondent, the petitioner is not the purchaser of the suit land. This issue cannot be decided in the interlocutory matter and the issue has to be decided on the basis of evidence that may be produced by the parties. Now, therefore, for



deciding this issue as to whether the petitioner has purchased the suit land or not, his presence is necessary in the suit. The court below has not examined the matter in this light.

6. Accordingly, this writ application is allowed and the impugned order dated 01.10.2015 passed by Subordinate Judge-XI, Muzaffarpur in Title Suit No.35 of 2010 is hereby set aside and the application filed under Order 1 Rule 10 CPC is allowed and the petitioner is added as party in the suit as defendant.

(Mungeshwar Sahoo, J)

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